

Senate Bill No. 683

CHAPTER 879

An act to amend Section 3515.7 of, and to add Section 3517.8 to, the Government Code, relating to state employment relations.

[Approved by Governor September 28, 2000. Filed
with Secretary of State September 29, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 683, Perata. Employment relations: state.

The Ralph C. Dills Act provides that once an employee organization is recognized as the exclusive representative of an appropriate unit, it may enter into an agreement with the state employer providing for organizational security in the form of maintenance of membership or fair share fee deduction. The act provides that fair share fee deductions shall continue for 3 years from the effective date of the agreement or the duration of the agreement, whichever comes first.

The California Public Employment Relations Board has determined that arbitration clauses do not continue in effect after the expiration of a collective bargaining agreement with limited exceptions.

This bill would require the parties to the agreement to continue to give effect to the provisions of an expired memorandum of understanding, including provisions that supersede existing law, provisions relating to arbitration, no strike provisions, agreements covered in the Fair Labor Standards Act, or the deduction of fair share fees, if the Governor and the recognized employee organization have not agreed to a new memorandum of understanding and have not reached an impasse in negotiations. The bill would also provide that if the parties reach an impasse in negotiations, the state employer may implement any or all of its last, best, and final offer. It would require any proposal in this offer that, if implemented, would conflict with existing statutes or require the expenditure of funds to be presented to the Legislature for approval. The bill would provide that implementation of the last, best, and final offer would not relieve the parties of the obligation to bargain in good faith and reach agreement if any circumstances change.

This bill would provide that fair share fee deductions shall continue until the effective date of a successor agreement or implementation of the state's last, best, and final offer, whichever occurs first.

The people of the State of California do enact as follows:

SECTION 1. Section 3515.7 of the Government Code is amended to read:

3515.7. (a) Once an employee organization is recognized as the exclusive representative of an appropriate unit it may enter into an agreement with the state employer providing for organizational security in the form of maintenance of membership or fair share fee deduction.

(b) The state employer shall furnish the recognized employee organization with sufficient employment data to allow the organization to calculate membership fees and the appropriate fair share fees, and shall deduct the amount specified by the recognized employee organization from the salary or wages of every employee for the membership fee or the fair share fee. These fees shall be remitted monthly to the recognized employee organization along with an adequate itemized record of the deductions, including, if required by the recognized employee organization, machine readable data. Fair share fee deductions shall continue until the effective date of a successor agreement or implementation of the state's last, best, and final offer, whichever occurs first. The Controller shall retain, from the fair share fee deduction, an amount equal to the cost of administering the provisions of this section. The state employer shall not be liable in any action by a state employee seeking recovery of, or damages for, improper use or calculation of fair share fees.

(c) Notwithstanding subdivision (b), any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to financially support the recognized employee organization. That employee, in lieu of a membership fee or a fair share fee deduction, shall instruct the employer to deduct and pay sums equal to the fair share fee to a nonreligious, nonlabor organization, charitable fund approved by the State Board of Control for receipt of charitable contributions by payroll deductions.

(d) A fair share fee provision in a memorandum of understanding which is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at anytime during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during the term. If the board determines that the appropriate number of signatures have been collected, it shall conduct the vote in a manner which it shall prescribe.

Notwithstanding this subdivision, the state employer and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on a fair share fee provision.

(e) Every recognized employee organization which has agreed to a fair share fee provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the board and to the employees in the unit, within 90 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or comparable officers. In the event of failure of compliance with this section, any employee in the unit may petition the board for an order compelling this compliance, or the board may issue a compliance order on its own motion.

(f) If an employee who holds conscientious objections pursuant to subdivision (c) requests individual representation in a grievance, arbitration, or administrative hearing from the recognized employee organization, the recognized employee organization is authorized to charge the employee for the reasonable cost of the representation.

(g) An employee who pays a fair share fee shall be entitled to fair and impartial representation by the recognized employee organization. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

SEC. 2. Section 3517.8 is added to the Government Code, to read:

3517.8. (a) If a memorandum of understanding has expired, and the Governor and the recognized employee organization have not agreed to a new memorandum of understanding and have not reached an impasse in negotiations, subject to subdivision (b), the parties to the agreement shall continue to give effect to the provisions of the expired memorandum of understanding, including, but not limited to, all provisions that supersede existing law, any arbitration provisions, any no strike provisions, any agreements regarding matters covered in the Fair Labor Standards Act of 1938 (Chapter 8 (commencing with Section 201) of Title 29 of the United States Code), and any provisions covering fair share fee deduction consistent with Section 3515.7.

(b) If the Governor and the recognized employee organization reach an impasse in negotiations for a new memorandum of understanding, the state employer may implement any or all of its last, best, and final offer. Any proposal in the state employer's last, best, and final offer that, if implemented, would conflict with existing statutes or require the expenditure of funds shall be presented to the Legislature for approval and, if approved, shall be controlling without further legislative action, notwithstanding Sections 3517.5, 3517.6, and 3517.7.. Implementation of the last, best, and final offer does not relieve the parties of the obligation to bargain in good faith

and reach an agreement on a memorandum of understanding if any circumstances change, and does not waive any rights that the recognized employee organization has under this chapter.

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